CASE SUMMARY

Complaint against the staff of the Housing Department for entering the private tenement flat of the complainant without giving a reasonable explanation and asking her young daughter to sign on documents which she did not understand

The Complaint

In April 1999, two staff of the Clearance Unit of the Housing Department (HD) gained admittance to the complainant's private tenement flat, when only her two minor daughters were present, to investigate whether her ex-husband lived at the address. They also unreasonably asked her 10-year old eldest daughter to sign on some documents which she did not understand. Feeling aggrieved, she lodged a complaint with this Office.

Information provided by HD

2. Under current rehousing policy, squatters affected by clearance operations but were not genuinely living in the clearance area or who owned domestic properties within 24 months before the pre-clearance survey, were not eligible for rehousing. In August 1999, HD announced the clearance of a certain squatter area. When staff of the Clearance Unit reviewed the rehousing eligibility of the complainant's ex-husband, they suspected that he owned private domestic property. He was unable to prove that he lived in the squatter area scheduled for clearance.

3. To ensure equitable allocation of housing resources, the Department had to conduct active investigation before determining the rehousing eligibility of squatters affected by clearances. In accordance with the existing Standing Orders governing domestic investigation, staff of the Clearance Unit would conduct a surprise visit to the suspected private property owned by the complainant's ex-husband in April 1999 to find out if he was eligible for rehousing.

Opinions and Conclusion

4. This Office considered that it was reasonable and necessary for the staff of the Clearance Unit of HD to conduct the visit and investigation in April 1999. However, taking into account the actual circumstances of visit , i.e. there were only two little girls at home, we consider that it was inappropriate for the two male staff of HD to seek to gain entry into the flat in the absence of any adult family member. We also consider it inappropriate for the complainant's eldest daughter, a minor, to be asked to make a written declaration. In the statements made by the staff concerned, they said that they had entered the flat upon invitation and that the little girl had made the

written declaration on her father's accommodation of her own accord. This Office noted that while this plea was indeed in accordance with HD's Standing Orders which stipulated that staff must not enter a flat unless they were invited, we considered that this particular Standing Order had been formulated with adult occupants in mind. Whether or not invited, it was clearly inappropriate to try to gain entry into a flat occupied by children, and under-age girls at that, without the benefit of

adult supervision. For the same reason, this Office considered that the child should not have been asked to sign a written statement whether or not she was willing to do so. All points considered, this Office concluded that the complaint was **substantiated**.

Recommendations

5. The Ombudsman made the following recommendations to the Director of Housing –

(a) to send a letter of apology to the complainant for handling this incident inappropriately; and

(b) to review the relevant Standing Orders and issue detailed guidelines on the conduct of visits to domestic premises to make an investigation, in particular on the manner to conduct such visits when there are no adult family members inside the premises.

Final Remarks

6. The Ombudsman was pleased to note that HD had taken follow up action in September 2000 to implement the recommendation by issuing supplementary guidelines on Visits to Suspected Alternative Accommodations. Staff of the Clearance Unit have been instructed that when they conduct domestic investigations, they should not enter a flat if there are no adults inside. They should also not have asked any minors to sign any documents that they may not be in a position to comprehend. A letter of apology was also sent to the complainant in October 2000.

Office of The Ombudsman
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